

## Rural Utilities Service, USDA

## § 1794.10

AUTHORITY: National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*); Pub. L. 103-354, 108 stat. 3178 (7 U.S.C. 6941 *et seq.*); Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508); Executive Order (EO) 11988, Floodplain Management; and EO 11990, Protection of Wetlands.

SOURCE: 49 FR 9550, Mar. 13, 1984, unless otherwise noted.

### Subpart A—General

#### § 1794.1 Purpose.

This part contains the policies and procedures of the Rural Utilities Service (RUS) for implementing the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*); the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508); and certain related statutes, regulations and orders. Among those statutes, regulations and orders are the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Advisory Council on Historic Preservation regulations on Protection of Historic and Cultural Properties (36 CFR Part 800); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order (EO) 11514, "Protection and Enhancement of Environmental Quality"; EO 11593, "Protection and Enhancement of the Cultural Environment"; EO 11988, "Floodplain Management"; EO 11990, "Protection of Wetlands"; and the Farmland Protection Policy Act (Pub. L. 97-98).

#### § 1794.2 Actions requiring environmental review.

The provisions of part 1794 apply to proposed administrative actions by RUS including, without limitation, loans, loan guarantees, reclassification of loan funds, lien accommodations, and approvals provided pursuant to loan contracts and security instruments (*e.g.*, approvals of the use of the general funds).

#### § 1794.3 Compliance.

The effective date of provisions contained in part 1794 is the date of publication of the final rule in the FEDERAL REGISTER. Any environmental docu-

ment accepted or prepared by RUS prior to the effective date may be developed in accordance with the RUS environmental requirements in effect at the time the document was accepted or prepared by RUS.

#### § 1794.4 Trivial violations.

It is the intent of this part that a trivial violation of its provisions will not give rise to an independent cause of action.

#### § 1794.5 Responsible officials.

The agency contact points for environmental matters shall be the Assistant Administrator, Electric or Telephone (as appropriate); Rural Utilities Service; U.S. Department of Agriculture; South Building, Washington, DC 20250. The Assistant Administrators, Electric and Telephone, are responsible for determining the proper definition of proposals and the need for the preparation and approval of draft Environmental Impact Statements (EIS). Final EIS's will be issued and approved by the Administrator.

#### § 1794.6 Metric units.

It is RUS's policy to prepare environmental documents using metric units with British system equivalents in parentheses. Environmental documents prepared by or for an RUS borrower (Borrower) should follow the same format.

#### § 1794.7 Guidance.

For further guidance in the preparation of notices and environmental documents RUS has prepared an RUS Environmental Guide. A copy of this RUS Environmental Guide is available upon request to the Assistant Administrator, Electric or Assistant Administrator, Telephone; Rural Utilities Service; U.S. Department of Agriculture, Washington, DC 20250.

### Subpart B—Implementation of the National Environmental Policy Act

#### § 1794.10 Apply NEPA early in the planning process.

The environmental review process requires early coordination with and involvement of RUS. Borrowers should

consult with RUS at the earliest stages of planning for any proposal which may require RUS action. Since planning efforts and environmental evaluation for power supply facilities, including power plants, transmission lines, coal or other fuel development, are inter-related, these activities should take place within the same time frame.

**§ 1794.11 Consideration of alternatives.**

In determining what are reasonable alternatives, RUS will consider a number of factors including, but not limited to, state of the technology, availability of resources and the time frame in which the identified need must be fulfilled.

**§ 1794.12 Public involvement.**

In carrying out its responsibilities under NEPA, RUS shall make diligent efforts to involve the public in the environmental review process through the following means:

(a) RUS notices required by part 1794 shall be published in the FEDERAL REGISTER and shall describe the nature, location and extent of the proposed action and indicate the availability and location of additional information.

(b) Borrower's notices, when required by this part or otherwise required by RUS, shall consist of both a legal notice and a paid advertisement published in a timely manner in a newspaper or newspapers of general circulation in the counties in which the proposal will take place or such other places as RUS determines. It shall generally describe the nature, location and extent of the Borrower's proposal and indicate the availability and location of additional information. If both the paid advertisement and legal notice appear in the same edition, the advertisement need not be lengthy and can refer the reader to the legal notice for a more detailed explanation. The Borrower shall consult with RUS prior to issuance of Borrower's notices where an EIS or Environmental Assessment (EA) will be prepared.

(c) The Borrower shall submit to RUS, as soon as practicable after publication, copies and publication dates of all Borrower's legal notices and paid advertisements published. A copy of all comments received by the Borrower

(including the Borrower's position, if any) concerning environmental aspects of the proposal shall be provided to RUS in a timely manner.

(d) Public hearings or meetings may be held at reasonable times and locations concerning environmental aspects of a proposed action in all cases where, in the Assistant Administrator's opinion, the need for hearings or meetings is indicated in order to develop adequate information on the environmental implications of the proposed action. The following shall be required in connection with a meeting or a hearing:

(1) Where an environmental document is the subject of the hearing or meeting, that document will be made available to the public at least ten (10) days in advance.

(2) Any person, organization or government body desiring to make a statement at the hearing or meeting may make such statement in writing or orally. Public hearings or meetings normally will be informal and will generally be confined to the environmental aspects of the proposal.

(3) RUS notice shall be published at least thirty (30) days before the hearings or meetings. The Borrower's notice of the hearings or meetings shall be published at least ten (10) days but no more than thirty (30) days before the hearings or meetings. RUS shall determine the counties in which the Borrower's notice shall be published in newspapers of general circulation to assure that persons most likely to be affected by the proposal will be made aware of the hearings. The notice shall present the date, time, location and purpose of the hearing or meeting. If an environmental document is the subject of the hearing or meeting, the notice shall inform the public where it can be obtained or is available for review.

(e) A list of RUS administrative actions for which EIS's and EA's are being prepared or contemplated will be available for public inspection at RUS's offices in Washington, DC.

**§ 1794.13 Interagency involvement.**

In carrying out its responsibilities under NEPA, RUS shall, to the extent